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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 02-199; RM-10514; FCC 13-114]

Radio Broadcasting Services; Magnolia, Arkansas; and Oil City, Louisiana

AGENCY: Federal Communications Commission.

ACTION: Final rule; denial of application for review.

SUMMARY: In this document, the Federal Communications Commission (“Commission”) denies an Application for Review filed by Access.1 Louisiana Holding Company, LLC (“Access.1”) of a Memorandum Opinion and Order of the Media Bureau (“Bureau”) in this proceeding, which denied Access.1’s Petition for Reconsideration of an earlier Bureau action, granting the reallocation, class downgrade, and change of community of license of Station KQHN(FM) from Magnolia, Arkansas, to Oil City, Louisiana. The document finds that the Bureau did not err in approving the relocation of this FM station.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, FCC 13-114, MB Docket No. 02-199, RM-10514, adopted August 14, 2013, and released August 16, 2013. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW, Washington, DC 20554. The complete text of this document may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or

In the Report and Order in this proceeding, the Bureau granted a Petition for Rule Making filed by Cumulus Licensing, LLC's predecessor in interest ("Cumulus") as licensee of Station KQHN(FM) for a downgrade in class of channel, and change of community of license for the station from Channel 300C1 at Magnolia, Arkansas, to Channel 300C2 at Oil City, Louisiana, See 70 FR 19337, April 13, 2005. In the Memorandum Opinion and Order, the Bureau affirmed the grant and concluded that the relocation of the station to Oil City did not constitute a "move-in" to the Shreveport, Louisiana, Urbanized Area because Cumulus had demonstrated that Oil City is sufficiently independent of the Shreveport Urbanized Area to warrant a first local service preference under the then-existing Tuck test. See 69 FR 8333, February 24, 2004.

On review, the Commission finds that the Bureau did not err in (1) determining that Oil City was independent of Shreveport; (2) declining to adopt Access.1's proposed processing policy of requiring a certification by a community of license modification proponent that it will not select a site that would provide substantial service to an urbanized area; and (3) finding that the proposed reallocation would serve the public interest. The Commission upholds those decisions for the reasons stated in the Memorandum Opinion and Order.

However, the Commission states that some additional discussion is warranted regarding the remaining issues raised by Access.1. Most importantly, the Commission finds that Cumulus had not engaged in misrepresentation and/or had not shown a lack of candor as to whether its proposal would be a "move-in" to the Shreveport Urbanized Area. The Commission explains that under the then-existing procedures, Cumulus was permitted to specify at the rule making

stage reference coordinates of a theoretical fully spaced site and later in the implementing application to specify a different site. Absent any extrinsic evidence to the contrary, which Access.1 did not produce, the Commission concludes that a misrepresentation or lack of candor allegation based on the specification of a different application site is speculative.

This document is not subject to the Congressional Review Act. (The Commission, is, therefore, not required to submit a copy of the Memorandum Opinion and Order to GAO, pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A) because the Application for Review was denied.)

FEDERAL COMMUNICATIONS COMMISSION.

Marlene H. Dortch,
Secretary.

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